

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7712 of 1997

with

SPECIAL CIVIL APPLICATION NO.7714 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

HEMUBHA GOVINDJI GOHIL

Appearance:

M/S PATEL ADVOCATES for Petitioner

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 20/10/97

ORAL JUDGEMENT

RULE. Ms Desai waives service of notice on behalf of the respondents. These two petitions are filed

by the State of Gujarat through the Deputy Engineer, Irrigation Sub-Division, Gondal.

2 The respondent in Special Civil Application No.7712 of 1997 is father of the respondent in Special Civil Application No.7714 of 1997. It is their case that they were working as daily-rated watchmen for different periods under the petitioner from 1984 onwards until their services came to be terminated in the year 1992. They sought References to the Labour Court at Rajkot being Reference No.682 of 1992 and 681 of 1992 respectively. The learned judge of the Labour Court at Rajkot has allowed both these References by his award dated 24th September 1996.

3 These two petitions seek to challenge those two awards. I have heard Mr Patel for the petitioner and Ms Desai for the respondents-workmen. From the award of the Labour Court it is seen that the petitioners did not examine anybody in defence of their case. Only a xerox copy of the list was produced to contend that the workmen had not put in 240 days during that period. The xerox copy which was produced in the Labour Court was not even a certified copy. In the circumstances, the learned Judge has refused to draw any inference in favour of the petitioners on the basis of those xerox copies. These xerox copies also could have been exhibited if the petitioners were to examine somebody to prove them. They have chosen to do neither. In the circumstances, there was no evidence of any sort from the petitioners and hence the learned Labour Judge was constrained to interfere in the order of the termination. He has granted reinstatement with continuity and there is no need to interfere with this part of the order. The award of 30% of the back wages was however not called for. The petitioners have suffered because of the negligence of the officers. Ms Desai is fair enough to concede on instructions that the respondents will not insist on these back wages if the order of reinstatement is maintained. The respondents were daily-rated watchmen. The petitioners have not led any evidence to show that the kind of the work which they were doing is not required.

3 The impugned award is confirmed with these modifications. That the award of 30% back wages is interfered with. Rule is made absolute to the aforesaid extent only.

4 The impugned award is of 24th September 1996 and these petitions are filed on 1st September 1997. Ms

Desai submits that the reinstatement be effected at the earliest. Mr Patel seeks time for four weeks to implement the award of reinstatement. The respondents will comply with the aforesaid orders on or before 17th November 1997. Direct Service is permitted. The workmen will be entitled to wages from 24.9.1996.

(mohd)